IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.501 OF 1991

The State of Maharashtra
through
Shri A.B. Hogale, Food Inspector,
C/o. Office of the Assistant
Commissioner, Food & Drugs Admn.,
M.S. Sindhudurg ...Appellant.

V/s

Shr Ramesh Vitthal Narsule,
age 31, Hotel Sushant and Dairy
situated at 109, Br.Nath Pai
Road, Vengurla, Dist. Sindhudurg. ...Respondent.

Mr. A.M. Shringarpure, APP for the appellant.

Mr. P.A. Swant for the respondent.

CORAM: V.M.KANADE,J.

DATE: 9th December, 2004

ORAL JUDGMENT:

1. Heard the learned APP appearing on behalf of the appellant - State and the learned Counsel for the respondent.

2. State has filed this appeal challenging the Judgment and Order passed by the Judicial Magistrate, First Class at Vengurla in Regular Criminal Case No.18 of 1986. By the said Judgment and Order, the Trial Court acquitted the accused of the offence punishable under section 16 of the Prevention of Food Adulteration Act, 1954.

3. The allegation against respondent No.2 was that he had adulterated buffalo milk. The learned APP appearing on behalf of the appellant has taken me through the Judgment and Order of the Trial Court as also the evidence adduced by the prosecution. In the present case, admitted position is that the complaint against the accused has been filed after a lapse of six months from the receipt of the report of the Public Analyst. The complainant has not given any explanation regarding the delay which is caused in filing the prosecution against the accused. From the evidence, it can be seen that the another serious lacuna in the prosecution case is that no opportunity was given to the accused to prefer an appeal and challenge the order passed by the Public Analyst. Thus, right of the accused to challenge the said report by resorting to provisions of section 13(2) of the Act has been violated and the accused thus lost the valuable opportunity of satisfying himself with the genuineness of the sample.

4. I have also perused the order of sanction which is granted under section 20 of the said Act. From the perusal of Exhibit-39 which is the order of sanction, it can be seen that there has been non-application of

mind and the Sanctioning Authority has not recorded its reasons as to why the said prosecution was essential and also was in public interest. Absence of valid reasons is serious lacuna in the order of sanction. The order of sanction also appears to have been passed on a standard format without giving particulars of the date of seizure and other particulars of the offence. the Trial Court, in my view, has correctly passed the order of acquittal in favour of the accused. I do not see any reason why this Court should interfere with the said order of acquittal. Appeal is accordingly dismissed.

V.M. KANADE, J.